

RESOLUTION NO.

CITY OF ERLANGER, KENTON COUNTY, KENTUCKY

A RESOLUTION SPONSORING A PROPOSED TEXT AMENDMENT

Whereas, KRS 100.211(3) provides that a proposal for a text amendment may originate with the legislative body; and

Whereas, Article 4 regulates uses and standards within all zones and Article 3 describes the zones within the City of Erlanger, and;

Whereas, Article 3 regulates zoning districts, and;

Whereas, Article 5 regulates dimensional requirements, and;

Whereas, Article 7 regulates development standards, and;

Whereas, Article 11 regulates signs, and;

Whereas, Article 13 regulates processes and procedures, and;

Whereas, Article 14 defines terms and phrases, and

Whereas, the City of Erlanger desires to modify the text:

- 1) Removing the term “adjacent to residential areas” for the use-specific standards for outdoor seating and dining areas for restaurants. These standards were intended to apply for all outdoor seating areas, regardless of proximity to residential. Removing the capacity requirement for outdoor seating, and;
- 2) Allowing greater flexibility with the MU (Mixed Use) District by removing the requirement for multiple uses on one parcel or building: The request is to allow the redevelopment of a single use building on a single parcel where one currently exists. The definition of “mixed use” will also be adjusted to avoid a conflict in language, and;
- 3) Allowing privacy fences in side and rear yards of residential and commercial property: These were previously permitted under the zoning code and were inadvertently omitted from the new zoning ordinance. One additional edit will be made in 7.06 to remove redundant language. 7.06, A. 10. Will be removed since the exact language can be found in 7.06, B. 8, and;
- 4) Adding language to require driveways to be set back at least one foot from a neighboring property line: This setback requirement existed in the previous ordinance and was inadvertently omitted from the new ordinance, and;
- 5) Adding a square footage minimum for a detached principle sign within the CC (Community Commercial) District: This minimum sign standard existed in the previous ordinance and was inadvertently omitted from the new ordinance. In

addition, the section name and description for 11.09 A. will be changed to clarify its intent, and;

- 6) Removing language related to the process of an appeal of decision of the Zoning Administrator: The intent of the new ordinance was to remove any redundant or unnecessary language that is repetitive of that language provided in the Kentucky Revised Statutes. The removal of this language will remove this redundancy and prevent future conflict if KRS is revised, and;
- 7) Adding language within the use-specific standards to allow temporary uses and construction trailers: The Z21 Blueprint (model code) provided language to allow for temporary uses and construction trailers however this language was not adopted as part of the new zoning ordinance. Staff feels the addition of this language could be beneficial moving forward. In addition, a character standard will be added to clarify that mobile trailers are not permitted as permanent commercial buildings, and;
- 8) Removing Multi-family from the list of permitted uses within the BP (Business Park) District and any additional standards to apply to the use within that zone: The previous zoning ordinance allowed Multi-Family in a very limited manner as a park of the Planned Unit Development Overlay, which would allow additional restrictions to be placed by City Council. The newly adopted zoning ordinance more loosely permits this use within the Business Park District, which was not the intent. Moving forward, a zone change request to a Planned Unit Development (which would become a stand alone district) will be the avenue for requesting this type of development, and;
- 9) Removing the requirement for all trash receptacles to be located within the side or rear yard and screened from view within residential districts: This requirement did not exist within the previous zoning ordinance and was inadvertently added to the new ordinance, and;

Whereas, it is the intent of the legislative body to sponsor and direct PDS to study and KCPC to conduct a public hearing on a proposed text amendment and make a recommendation concerning the application.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ERLANGER, COUNTY OF KENTON, COMMONWEALTH OF KENTUCKY, THAT:

The City's Economic Director, as an agent of the City's legislative body, is authorized to apply and propose the following to be studied and set for public hearing pursuant to KRS 200.211:

- 1. Removing the term "adjacent to residential areas" for the use-specific standards for outdoor seating and dining areas for restaurants. These standards were intended to apply for all outdoor seating areas, regardless of proximity to residential. Removing the capacity maximum for outdoor seating.***

ARTICLE 4 USE REGULATIONS & STANDARDS

4.05 Use-Specific Standards

C. Commercial

23. Restaurant, with or without Drive-in or Drive-Through

1. Any restaurants with drive in or drive through shall comply with Section [10.21](#), Parking and Loading Standards - Drive-In or Drive-Through Lanes and Stacking Spaces.
2. Bars are permitted in restaurants provided they are less than 50 percent of the serving area. If the bar portion of the restaurant occupies greater than 50 percent of the serving area, the use shall be considered a Bar Or Drinking Place and shall be subject to the conditions of Section [4.05, C., 5.](#), Bar or Drinking Place.
3. Restaurants with outdoor seating or dining ~~adjacent to residential districts~~ shall meet the following criteria:
 - i. Such an area shall be designed to clearly identify the limits of the outdoor seating area with a decorative fence, wall or similar barrier, separating the outdoor seating area from a public right of way, access drive or parking lot.
 - ii. ~~Outdoor seating shall not exceed forty percent (40%) of the maximum seating capacity of the indoor seating area.~~
 - iii. Outdoor waste receptacles for customers shall be provided, conveniently located, regularly serviced and maintained.
 - iv. If a pedestrian walkway is provided around an outdoor seating area, then it must be a minimum of five (5) feet wide, to allow pedestrians unobstructed passage around the outdoor seating area.
 - v. Outdoor seating areas shall not be permitted to locate within any required setbacks.
 - vi. Outdoor seating area shall be calculated into the off-street parking requirements.
 - vii. Outdoor seating areas adjacent to a residential zone shall not be operated later than:
 1. 10:00 PM - Sunday through Thursday
 2. 11:00 PM - Friday and Saturday
 - viii. Outdoor seating areas, without amplified music, shall not be permitted within three hundred forty (340) feet of a residence.
 - ix. Outdoor seating areas, with amplified music, shall not be permitted within six hundred fifty (650) feet of a residential zone. However, the decibel level, at a residential zone, shall not exceed sixty (60) db.

2. Allowing greater flexibility with the MU (Mixed Use) District by removing the requirement for multiple uses on one parcel or building: The request is to allow the redevelopment of a single use building on a single parcel where one currently exists. The definition of “mixed use” will also be adjusted to avoid a conflict in language.

ARTICLE 3 ZONING DISTRICTS

3.04 Zoning Districts

3.04.R. MIXED-USE (MU)

Purpose

The Mixed-Use District is intended to provide a diverse mixture of high-activity uses within walkable and connected districts. Uses shall include retail, office, and residential dwelling units either on the same parcel, ~~or within the same building, or within the overall development or district. It is the intent of the district to integrate multiple uses and that no one use type dominates the district. Mixed uses shall contain at least two uses, where at least one use is at least 25 percent of the building or development.~~ Mixed-use developments should have coordinated development patterns at a pedestrian scale, with high-quality architecture, plazas, sidewalks, and pedestrian and bicycle amenities to activate the street and connect these centers to the residential neighborhoods they support.

ARTICLE 14 DEFINITIONS

14.02 Definitions

M

Mixed Use - A land use where three or more significant uses are permitted (such as retail/entertainment, office, residential, hotel, light industrial and/or civic/cultural/recreation) that, in well planned projects, are mutually supporting. These uses may be combined on a lot, within a structure, development or within an overall ~~development district.~~

3. Allowing privacy fences in side and rear yards of residential and commercial property: These were previously permitted under the zoning code and were inadvertently omitted from the new zoning ordinance. One additional edit will be made in 7.06 to remove redundant language. 7.06, A. 10. Will be removed since the exact language can be found in 7.06, B. 8.

ARTICLE 7 DEVELOPMENT STANDARDS

7.06 Fences and Walls

TABLE 7.3 - FENCE TYPES LIMITED

E. Wood or other, less than 50% open. Add X to allow this fence type within all residential and commercial districts in the side and rear yard only. Add a - (Dash) to indicate this fence type is not permitted in the front yard area.

7.06 Fences and Walls

A. General Regulations

The following standards shall apply to all fences and walls in all zoning districts unless otherwise noted.

1. Fences and walls shall be maintained in good order.
2. Fences shall not contain advertising, signs, logos or other lettering unless it complies with the sign regulations.
3. Where a fence or wall is used as part of required screening, all required vegetation shall be planted on the exterior side of the fence or wall (exterior to the lot). See Section [7.07, Landscaping, Screening, and Buffers](#).
4. Any fence located within a required sight triangle shall not exceed three feet in height.
5. Fences and walls shall be constructed such that the “finished” part of the fence or wall is located to the exterior of the property.
6. Walls and fences used for landscaping or screening shall be constructed of masonry, stone, wood, vinyl or a material similar in composition and appearance as the principal building. Such walls and fences shall be opaque.
7. Nothing in this subsection shall preclude the installation of temporary fences around construction works, erected or maintained pursuant to the International Building Code or Soil Erosion and Sedimentation Control Act requirements.
8. Prohibited Fences
 - a. Fences or walls topped with or containing broken glass or similar material are prohibited.
 - b. Fences constructed of readily flammable material (traditional wood fences excluded) such as paper, cloth, or canvas are prohibited.
 - c. Fence material not listed in Table 7.2, Fence and Wall Types Described and Illustrated are not permitted unless approved by the Zoning Administrator as a like-material that meets or exceeds the intent of the fence standards.
9. Barbed wire and electric fencing are permitted only in the Agriculture district where it is accessory to a permitted agricultural use.

- ~~10. The construction of walls or fences is allowed on a property with no principal structure provided that a principal structure or principal use with the same ownership as the vacant property abuts the vacant property (without a street or alley separating). The fence constructed must meet all regulations of this section. Fence material must be consistent all the way around the property. Chain link fences are prohibited on vacant properties in all Residential and Commercial Districts.~~
- ~~11.~~ 10. In addition to a zoning permit, certain walls and fences may also require a building permit.

4. Adding language to require driveways to be set back at least one foot from a neighboring property line: This setback requirement existed in the previous ordinance and was inadvertently omitted from the new ordinance.

ARTICLE 5 DIMENSIONAL REQUIREMENTS

5.08 Permitted Encroachments

D. Other Permitted Setback Encroachments

1. Walls and perimeter fencing as regulated in Section 7.06, [Fences and Walls](#).
2. Sidewalks, multi-use paths and other pedestrian amenities.
3. Driveways and other vehicular access points, which are addressed in [Article 10, Parking & Loading Standards](#), provided they are not closer than one foot to the property line to which they run approximately parallel.
4. Landscaping as regulated by Section 7.07, [Landscaping, Screening, and Buffers](#).
5. **Adding a square footage minimum for a detached principle sign within the CC (Community Commercial) District: This minimum sign standard existed in the previous ordinance and was inadvertently omitted from the new ordinance. In addition, the section name and description for 11.09 A. will be changed to clarify its intent.**

ARTICLE 11 SIGNS

11.09 Signs Requiring a Permit Allowed Signs

A. Sign Requirements by District

~~The following table contains relevant regulations by sign type for signs requiring a permit. The following table contains relevant regulations for signs within each district. A sign permit is required, unless identified in Section 11.06 as a sign allowed without a permit.~~

TABLE 11.1 - PERMITTED SIGNS

Add the following language to the table under CC Zone - Detached principal signs - Maximum Sign Area (Sq Ft)

25 square feet or 2 per 1,000 sq ft gross leasable area, not to exceed 300, whichever is greater

6. Removing language related to the process of an appeal of decision of the Zoning Administrator: The intent of the new ordinance was to remove any redundant or unnecessary language that is repetitive of that language provided in the Kentucky Revised Statutes. The removal of this language will remove this redundancy and prevent future conflict if KRS is revised.

ARTICLE 13 PROCESS AND PROCEDURE

13.12 Appeals

A. Appeals from an Official Action, Order, Requirement, Interpretation, Grant, Refusal, or Decision of the Zoning Administrator

Per [KRS 100.257](#) and [KRS 100.261](#), and [KRS 100.236](#), appeals to the Board may be taken by any person or entity claiming that there is an error in, or that they are injuriously affected or aggrieved by, an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator.

- ~~1. An appeal shall be made within 30 calendar days after the applicant or its agent receives notice of the action of the Zoning Administrator, by filing a notice of appeal with the Board of Adjustment, that specifies the grounds of the appeal and gives notice of the appeal to any and all parties of record.~~
- ~~2. The applicable fee required by the Board of Adjustment shall accompany the notice of appeal at the time it is filed with the Zoning Administrator.~~
- ~~3. The Zoning Administrator shall transmit all records pertaining to the decision that is being appealed.~~

- ~~4. The Board of Adjustment shall hear the appeal within 30 days and give public notice in accordance with [KRS Chapter 424](#) as well as written notice to the applicant and the Zoning Administrator at least one calendar week prior to the hearing.~~
- ~~5. The affected party may appear at the hearing in person or by attorney and all shall be given an opportunity to be heard.~~
- ~~6. The Board shall decide on the appeal within 60 calendar days from the date the appeal was filed with the Zoning Administrator and the Board.~~
- ~~7. In determining that an appeal may be granted, the Board must find that there was an error in, or that the applicant was injuriously affected or aggrieved by, an order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator.~~

7. Adding language within the use-specific standards to allow temporary uses and construction trailers: The Z21 Blueprint (model code) provided language to allow for temporary uses and construction trailers however this language was not adopted as part of the new zoning ordinance. Staff feels the addition of this language could be beneficial moving forward. In addition, a character standard will be added to clarify that mobile trailers are not permitted as permanent commercial buildings.

ARTICLE 4 USE REGULATIONS & STANDARDS

4.05 Use-Specific Standards

K. Temporary Uses

1. All Temporary Uses

- a. A Temporary Use Permit must be obtained from the Zoning Administrator prior to the establishment of any Temporary Use that will exceed 30 days.
- b. Mobile vendors must obtain any required occupational licenses, health licenses and any required local right-of-way or business permits.
- c. Permission to operate a temporary use on public or private property must be obtained in writing from the property owner or their designee.
- d. Temporary uses may not be located in a required setback, landscaping, or buffer area.
- e. Temporary uses may not take up required parking spaces, obstruct traffic on public streets, or interfere with safe traffic movement within parking lots or driveways.

- f. No mobile vendor shall be left unattended or stored, parked, or left for more than 48 hours on any street or sidewalk.
- g. No temporary use shall solicit or conduct business with persons in motor vehicles.
- h. No mobile vendor shall engage in open-lot or outdoor display of products or merchandise.
- L. Temporary Construction Trailer or Sales Office
 - 1. A construction trailer or sales office may be established and operated until the time of the Certificate of Occupancy, or completion of the sale of the lots or residences within the subdivision.
 - 2. Real estate sales conducted from a temporary sales office are limited to sales of lots within the subdivision it is located and to other subdivision projects under the same ownership.

ARTICLE 7 DEVELOPMENT STANDARDS

7.04 Character Standards

TABLE 7.1 - ZONING DISTRICTS

Add a new standard with Xs indicating applicability to all commercial, employment, other and special districts to the following section.

A. Character Standards - Non-Residential Construction

To define public street space, foster compatibility between development sites, and to emphasize key commercial areas, the following standards shall apply.

10. Mobile trailers, which are constructed off-site on a permanent chassis and delivered to the site in one or more sections on wheels, and do not require a permanent foundation are not permitted, except as a temporary construction or sales trailer, per 4.05.K.

8. Removing Multi-family from the list of permitted uses within the BP (Business Park) District and any additional standards to apply to the use within that zone: The previous zoning ordinance allowed Multi-Family in a very limited manner as a park of the Planned Unit Development Overlay, which would allow additional restrictions to be placed by City Council. The newly adopted zoning ordinance more loosely permits this use within the Business Park District, which was not the intent. Moving forward, a zone change request to a Planned Unit Development (which would become a stand alone district) will be the avenue for requesting this type of development.

ARTICLE 4 USE REGULATIONS & STANDARDS

4.04 Table of Uses

TABLE 4.1 PERMITTED AND CONDITIONAL USES

Remove P from the table on the row of Multi-Family under the column for the BP District.

ARTICLE 4 USE REGULATIONS & STANDARDS

4.05 Use-Specific Standards

1. Multi-Family

- a. If a property owner puts locks on each bedroom door in a single-family home with the intention of subleasing bedrooms as units, that single-family home shall be considered a multi-family residence.
- b. The location of detached garages, carports, and surface parking lots shall comply with Section 10.02, Location of Parking.
- c. Parking garages containing more than 50 spaces shall comply with Section 7.07, 2., d., Parking Garages - Landscaping.
- d. A building shall not be located closer than 20 feet to any other building.
- e. Walkways shall connect all buildings to each other, parking areas, amenity areas, and existing public sidewalks adjacent to the development.
- f. All sides of a building shall display a similar level of architectural features and materials.
- g. Garages shall be:
 1. Made of the same material as the primary structure.
 2. Similar in architectural style to the primary structure (roof pitch, gables, etc.).
 3. Sited in a way that avoids long, monotonous rows of garage doors and building walls.
 4. Oriented so that they do not visually dominate the building façade or the streetscape.
- ~~h. In addition to the above requirements, within the BP-1 Zone:
 1. Shall not exceed a density of 20 dwelling units per net acre.
 2. Shall be limited to a maximum of 10% of the total BP-1 acreage within the city boundary.~~

9. *Removing the requirement for all trash receptacles to be located within the side or rear yard and screened from view within residential districts: This requirement did not exist within the previous zoning ordinance and was inadvertently added to the new ordinance.*

ARTICLE 7 DEVELOPMENT STANDARDS

7.04 Character Standards

TABLE 7.1 - ZONING DISTRICTS

Remove Xs indicating the following requirement within all residential districts and the residential to office conversion zone.

D. Character Standards—Services, Utilities, and Minor Accessory Uses
To subordinate the appearance of services, utilities, and minor accessory uses on individual sites and throughout the City’s jurisdiction, the following standards shall apply.

3. All dumpster, trash and recycling receptacle storage areas shall be located in the side or rear yard. Dumpsters shall also be screened per Section 7.07, N.

This the _____ day of June, 2022.

CITY OF ERLANGER

BY: _____
Jessica Fette
Mayor

ATTEST: _____
Sherry Hoffman
City Clerk